APPEAL NO. 020416
FILED APRIL 5, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 23, 2002. With regard to the issues before him, the hearing officer concluded that the respondent (claimant herein) suffered a compensable injury on _____, and had disability from _____, continuing through the date of the CCH. The appellant (carrier herein) files a request for review, contending that the hearing officer erred in finding the claimant suffered a compensable injury because the claimant merely suffered an injury due to an ordinary "movement of life." The carrier also argues that the hearing officer erred in finding disability. The claimant responds that the decision of the hearing officer is supported by the evidence.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The claimant testified that on _____, when she was working as a flight attendant, she squatted down with her knees turned to one side to get a headset and when she stood up she felt a pop and pain in her right knee. The claimant was diagnosed with a knee injury. The claimant presented testimony and medical evidence showing that she suffered disability as a result of her knee injury.

The question that an injury occurred is one of fact and generally may be found based upon the claimant's testimony alone. However, the carrier really does not dispute on appeal that the claimant suffered an injury. The carrier argues that the claimant's injury was not in the course and scope of her employment as it took place when she was performing an "ordinary movement of life." The carrier's argument is seriously flawed for a number of reasons. First and foremost is that it is based upon the carrier's contention that the claimant was injured, not when getting a headset for a passenger, but instead when getting out of her jump seat. While there may be some evidence in the record to support such a mechanism of injury, it was the claimant's testimony that she was injured when rising from picking up the headset and the hearing officer, who is the finder of fact, found as fact that this is how the claimant's injury took place. The carrier's argument is also predicated on its contention that the claimant did not twist her knee during the injury, making her injury comparable to an idiopathic fall. Again the claimant testified as to twisting and the hearing officer specifically found that she twisted her knee. Also, the hearing officer specifically found that the claimant was furthering the affairs of her employer at the time of her injury, contrary to another of the carrier's arguments. We will only set aside factual findings of a hearing officer that are so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Applying this standard, there is clearly sufficient evidence to support the factual findings of the hearing officer. The hearing officer also clearly

applied the law correctly to his factual findings. We also note that merely because an injury could have taken place outside of work, does not mean that when an injury does take place at work that the injury is not compensable. Finally, disability is a question of fact to be determined by the hearing officer and may be based on the testimony of the claimant alone. In the present case, the hearing officer's finding of disability was supported by the claimant's testimony as well as medical evidence.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

TIM KELLY
AIG
675 BERING, 3RD FLOOR
HOUSTON, TEXAS 77057.

Gary L. Kilgore
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Susan M. Kelley
Appeals Judge